

REMARKS

Claims 7, 9-11, 13, and 14 are pending in this application and are rejected.

In the following, the Examiner's comments are included in bold, indented type, followed by the Applicants' remarks:

Claim Rejections – 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 7, 9-11, 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kruglikov et al. (US 6105026), and further in view of Tow et al. (US 5860070).

Kruglikov teaches directly away from the claimed invention. The examiner asserts that the ID# column of Kruglikov meets the "first value" element of the claim and that the hiredate column meets the "second value" element of the claim. The examiner asserts that "[d]ifferent hire dates can have the same IDs," even though Fig. 1 of Kruglikov would teach a person of ordinary skill in the art that the ID# increments (and thus is different) for each row. Even assuming that the same ID# can be used for different employees having different hire dates, Kruglikov teaches that the hiredate column not the ID# column is "predominate in determining the order of the rows in the storage facilities." Kruglikov specifies that the rows are "grouped together by date." Col. 1, lines 25-26. As a result, if one row had an earlier ID# and a later hire date than a second row, the hire date would predominate in ordering the rows - the row with the earlier hire date and later ID# would be ordered first. Claims 7, 9-11, 13, and 14 require the opposite: "the first value of the row ID is predominate in determining the order of the rows in the storage facilities." Kruglikov does not disclose this element or an equivalent. Claims 7, 9-11, 13, and 14 would not have been obvious because there is no prima facie case of obviousness

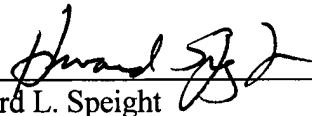
where the asserted combination lacks at least one element. MPEP 2143; *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1443 (Fed. Cir. 1991). Applicants respectfully request withdrawal of the rejections of claims 7, 9-11, 13, and 14.

In addition, claim 14 includes the element: "table rows are distributed among the plurality of storage facilities based on the second value" in combination with the requirement that "the first value of the row ID is predominate in determining the order of the rows in the storage facilities." In other words, the nonpredominant value is the one on which distribution to storage facilities is based. However, to the extent Kruglikov teaches anything about storage facilities, it teaches the opposite. Kruglikov's top concern is that rows stay in their partition. Col. 1, lines 25-26. Even if the partition are stored on particular disks, the partition number is the predominate value in ordering rows, so the requirements of claim 14 are not met. Furthermore, distributing rows by a nonpredominant value would conflict with the functionality disclosed in Kruglikov - the MOVE PARTITION function. Col. 2, lines 45-47. Prior art cannot be combined in a manner that defeats its purpose. *See In re Hedges*, 783 F.2d 1038, 1041, 228 USPQ 685, 687 (Fed. Cir. 1986). In the absence of a motivation or suggestion to combine, the obviousness rejection should be withdrawn. *See* MPEP § 2143.01. The Tow reference does not even discuss storage facilities, let alone suggest that rows be distributed in accordance with a nonpredominant value of the row ID by which they are sorted on the facilities. Applicant respectfully requests withdrawal of the rejection of claim 14.

SUMMARY

Applicants contend that the claims are in condition for allowance, which action is requested. Applicants do not believe that any fees are required for this response. Should any additional fees be required, Applicant requests that the fees be debited from NCR Deposit Account Number **14-0225** Order Number **069092.0108**.

Respectfully submitted,



Howard L. Speight
Reg. No. 37,733
Baker Botts L.L.P.
910 Louisiana
Houston, Texas 77002
Telephone: (713) 229-2057
Facsimile: (713) 229-2757
E.Mail: howard.speight@bakerbotts.com
ATTORNEY FOR APPLICANTS

Date: April 27, 2006